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FISCAL IMPACT STATEMENT

LS 7657

BILL NUMBER: HB 1684

NOTE PREPARED: Jan 12, 2003

BILL AMENDED:

SUBJECT: Employee Protections.

FIRST AUTHOR: Rep. Liggett

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that findings of fact and decisions in which final action was taken that resulted in the discharge or suspension without pay of a public employee are public records. It requires an employer that provides an enclosed employee lounge or break room: (1) to designate and post it as a nonsmoking area; and (2) to provide at least the same number of enclosed nonsmoking employee lounges or break rooms as those in which smoking is permitted. The bill provides for civil penalties for: (1) a person who smokes in an enclosed employee lounge or break room that is posted and designated as a nonsmoking area; or (2) an employer who fails to furnish nonsmoking areas in the manner prescribed.

The bill also requires payment of regular wages to an employee who: (1) performs jury service; or (2) reports to a work site at an employer's request. The bill requires an employer to provide lunch periods and paid rest breaks under certain conditions. The bill also allows an employee employed by an employer with at least 20 but not more than 49 employees to take family leave in certain circumstances. It gives an employer discretion not to grant family leave to the highest paid 10% of employees. This bill permits an employer to adopt a uniform policy to govern family leaves. It protects an employee's employment and benefit rights while taking a family leave.

The bill also permits an employee to bring a civil action against a private employer that disciplines or terminates the employee for reporting violations of federal, state, or local laws. The bill also permits an employee to bring a civil action against a former employer when the employee is discharged for other than just cause. It requires certain employers to give written notice before plant closings and mass layoffs. The bill makes it unlawful to discriminate based on marital status or sexual preference. It also redefines "employer" for discrimination claims to include a person employing at least one person in Indiana.

Effective Date: July 1, 2003; January 1, 2004.

Explanation of State Expenditures:

Explanation of State Revenues: *Findings of Fact and Decisions:* The bill provides that information concerning findings of fact and decisions in which the final action is suspension without pay are public records. Under current law disciplinary actions where the employee is disciplined or discharged are public records. There could be some minor fiscal impact in keeping track of public and non-public personnel records.

Break Room: The bill does not require an employer to provide a break room or employee lounge, but if one is provided, it must be designated as nonsmoking. If the employer does not provide enough nonsmoking rooms, then the employer is subject to a Class A infraction. If more than one room is provided, then there must be at least as many nonsmoking rooms as rooms that allow smoking. Smoking in a nonsmoking room is subject to a Class B infraction. If the person has at least 3 previous violations, then the action becomes a Class A infraction.

Jury Duty: The bill provides that an employee's wages can not be reduced for responding to a summons for jury service, serving on a juror, or attending court for prospective jury service. The employee is required to turn over to the employer the amount paid for jury service minus mileage and parking. The bill should have no impact on the state as an employer.

Lunch and Rest Breaks: The bill provides a 30-minute lunch break if the employee is scheduled to work at least 6 hours. The bill also provides for a 10-minute paid rest break after every two hours of continuous work. The provision should have no impact on the state as an employer.

Family Leave: The bill allows an employee employed by an employer with at least 20 but not more than 49 employees to take family leave in certain circumstances. Wages are not required to be paid during the leave. The provision should have no fiscal impact on the state as an employer.

Termination and Discipline of Employees: The bill permits an employee to bring a civil action against a private employer that disciplines or terminates the employee for reporting violations of federal, state, or local laws. It also permits an employee to bring a civil action against a former employer when the employee is discharged for other than just cause. The impact is unknown and would depend on the number of civil actions created. The state impact is probably small.

Plant Closings: The bill requires employers to give written notice before plant closings and mass layoffs. The state impact is minor.

Discrimination: The bill makes it unlawful to discriminate based on marital status or sexual preference. The bill may increase state costs in investigating discrimination. The impact is unknown.

If additional court cases occur, revenue to the state General Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class A infraction is \$10,000, which is deposited in the state General Fund. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed. 70% of the court fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures:

Explanation of Local Revenues: If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Labor; Department of Workforce Development, Department of Personnel.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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